

**AMENDMENT ONE  
INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
TOWN OF ORO VALLEY

THIS AGREEMENT is entered into August 12, 2004, Amendment One to JPA 03-025, AG Contract No.: KR03-0526TRN, filed with the Secretary of State under No. 26203 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, (the "State") and the TOWN OF ORO VALLEY, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993(g) to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

The parties agree to amend the funding amounts for fiscal year 2003 and 2004.

Paragraph I. 3. and 4. are deleted and replaced in full as follows:

3. The State has approved the exchange of **\$2,911,500.00** Highway User Revenue Funds (HURF) to the Town for the construction of improvements to First Avenue, and such funds will be repaid to the State by withholding from the Pima Association of Governments (PAG) federal funds and the obligation authority for federal funds in the amount of **\$3,437,838.00** in fiscal year 2003.

4. The State has approved the exchange of **\$2,700,000.00** Highway User Revenue Funds (HURF) to the Town for the construction of improvements to First Avenue, and such funds will be repaid to the State by withholding from the Pima Association of Governments (PAG) federal funds and the obligation authority for federal funds in the amount of **\$3,188,103.00** in fiscal year 2004.

**THEREFORE**, in consideration of the mutual Agreements expressed herein, this Agreement is amended as follows:

#01  
NO. 26203  
Filed with the Secretary of State  
Date Filed: 08/12/04  
Janice K. Brewer  
Secretary of State

By: Dwight D. Haenebold

**II. SCOPE OF WORK**

2. The State will:

**Article II. a. are deleted in their entirety and replaced with the following:**

a. Within 30 days after receipt and approval of construction invoices, advance the Town HURF funds for thirty percent of the project costs at the start of construction, for thirty percent of the project cost at the thirty percent completion stage, for thirty percent of the project cost at the sixty percent completion stage, and for ten percent of the project at the one hundred percent project completion stage, at a total amount of **\$5,611,500.00** for construction.

b. Withhold from PAG, federal funds and the obligation authority of federal funds in the amount of **\$6,625,941.00** in Fiscal Years 2003 and 2004 for construction.

**EXCEPT AS AMENDED** herein, ALL OTHER terms and conditions of the original Agreement remain in full force and effect.


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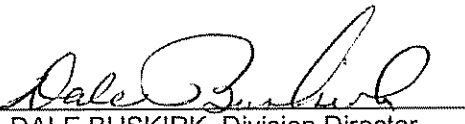
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first written above.

**TOWN OF ORO VALLEY**

**STATE OF ARIZONA**

Department of Transportation

By:   
PAUL LOOMIS  
Mayor

By:   
DALE BUSKIRK, Division Director  
Transportation Planning Division

ATTEST

By:   
KATHRYN CUVELIER  
Town Clerk

JPA 03-025

**Amendment One**

APPROVAL OF THE TOWN OF ORO VALLEY ATTORNEY

I have reviewed the above referenced proposed intergovernmental Agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and TOWN OF ORO VALLEY and declare this Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 7<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
City Attorney

**RESOLUTION NO. (R) 03- 49**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE STATE OF ARIZONA TO UTILIZE THE HURF EXCHANGE PROGRAMS FOR THE FIRST AVE WIDENING AND BRIDGE CONSTRUCTION: CDO WASH TO TANGERINE RD.**

**WHEREAS**, ORO VALLEY is a political subdivision of the State of Arizona, is vested with all the rights, privileges and benefits, and entitled to immunities and exemptions granted municipalities and political subdivisions under the constitution and laws of the state of Arizona and United States; and

**WHEREAS**, the widening of First Ave and bridge construction: CDO Wash to Tangerine Rd project is necessary for the public's health, safety and welfare in order to provide for the safe, preserve Town assets and efficient movement of traffic; and

**WHEREAS**, pursuant to Arizona Revised Status, Section 28-6993(f) local government may exchange Surface Transportation Program monies for state highway funds so named the State the HURF Exchange Program; and

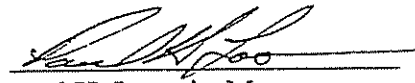
**WHEREAS**, the TOWN COUNCIL deems it necessary in the interest of providing for health, safety and welfare of the citizens of the TOWN OF ORO VALLEY to enter into an intergovernmental agreement with the State of Arizona for a HURF Exchange for First Ave widening and bridge construction from CDO Wash to Tangerine Rd.

**THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:**

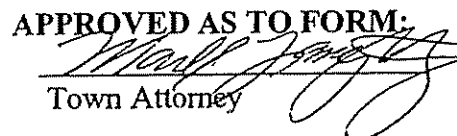
That Mayor is authorized to execute the intergovernmental agreement on behalf of the Town of Oro Valley.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Oro Valley, Arizona this 25<sup>th</sup> day of June, 2003.

**TOWN OF ORO VALLEY, ARIZONA**

  
Paul H. Loomis, Mayor

**ATTEST:**  
  
Kathryn E. Cuvelier, Town Clerk

**APPROVED AS TO FORM:**  
  
Town Attorney



TERRY GODDARD  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855


**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR03-0526TRN (**JPA 03-025-Amendment One**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: August 5, 2004

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section